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GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

RECEIVED  
Manager, EO Determinations - Cincinnati

ate:

MAY 10 2001

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3). Based on the information submitted, we have concluded that you do not qualify for exemption under that section. The basis for our conclusion is set forth below. Your organization was formed to provide grants to qualifying organizations for specific projects that promote employment growth opportunities; direct job creation; assistance for relocating businesses; and to fund various economic development programs in your area. Additionally, your organization proposes to contract with the owners of vacant commercial buildings that have failed economically. After purchasing these vacant office buildings, your organization proposes to sell them to outside investors. You have stated that this area has not been classified as economically depressed. Currently, your organization has no assets. The Kodiak Chamber of Commerce, an organization recognized as exempt under section 501(c)(6) of the Code, is promoting the development of your organization.

Your organization has not acquired any vacant office buildings or commercial properties at this time nor has it developed any criteria to determine who will be eligible for the available grants or other services.

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that an organization will be regarded as 'operated exclusively' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

[REDACTED]

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this subparagraph unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Revenue Ruling 77-111, 1977-1 C.B. 144, provides that an organization formed to increase business patronage in a deteriorated area by providing information on the area's shopping opportunities, local transportation, and accommodations is not operated exclusively for charitable purposes and does not qualify for exemption under section 501(c)(3) of the Code.

Revenue Procedure 90-27, 1990-1 C.B. 514, provides, in part, that exempt status will be recognized in advance of operations if proposed operations can be described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirements of the section under which exemption is claimed. A mere statement of purposes or statement that proposed activities will be in furtherance of such purposes will not satisfy this requirement. The organization must fully describe the activities in which it expects to engage, including the standards, criteria, procedures, or other means adopted or planned, and the nature of contemplated expenditures. Where the organization cannot demonstrate to the satisfaction of the Service that its proposed activities will be exempt, a record of actual operations may be required before a ruling or determination letter will be issued. In those cases where an organization is unable to describe fully its purposes and activities, a refusal to issue a ruling or determination will be considered an initial adverse determination from which administrative appeal or protest rights will be afforded.

Based on the limited information you have provided, we are unable to conclude that you meet the operational test set forth in section 1.501(c)(3)-1(c)(1) of the regulations. When requested to provide detailed information about your proposed activities, you have simply referred to your purposes, as in the responses to our letter of [REDACTED]. As noted in Rev. Proc. 90-27, a restatement of your purposes is not an adequate substitute for a detailed description of your activities.

You have indicated that you will provide grants to qualifying organizations for specific projects that promote growth in employment opportunities and direct job creation. However, you have provided no information as to how these organizations will be selected or how you will insure that funds are used solely in furtherance of exempt purposes. Furthermore, you have not explained how providing such support furthers any recognized exempt purposes. As explained in Rev. Rul. 77-111, activities that promote business activity even in clearly established economically deteriorating areas may not further charitable purposes exclusively. We are therefore unable to conclude that this activity furthers an exempt purpose under section 501(c)(3) of the Code, or that it serves a public, rather than a private interest as required by section 1.501(c)(3)-1(c)(1)(ii) of the regulations.

Accordingly, since you have not provided sufficient information about the proposed operation of your organization, a determination as to your exempt status under section 501(c)(3) of the Code will not be made at this time. You are, therefore, required to file Federal income tax

[REDACTED]

returns until such time as your exempt status is recognized.

Contributions to your organization are not deductible under section 170(c)(2) of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone, who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If you do not protest this ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio EP/EO key district office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service, EP/EO Customer Service, P.O. Box 2508, Cincinnati, OH 45201. The appropriate State Officials will be notified of this action in accordance with Code section 6104(c).

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service  
[REDACTED] T:EO: RA: T: 3  
1111 Constitution Avenue, N.W.  
Washington, DC 20224

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

(signed) Robert C Harper, Jr.

Robert C. Harper, Jr.  
Manager, Exempt Organizations  
Technical Group 3

[REDACTED]

[REDACTED]

[REDACTED]